

BASIS FOR THE AMENDMENT

Claim 4 has been amended.

Claim 10 has been amended to remove an improper multiple dependence.

No new matter was added to the application by virtue of the present amendment.

Entry and favorable consideration of this amendment are respectfully requested.

REMARKS

The Office has required restriction in the present application as follows:

Group I: Claims 1-2, drawn to an Escherichia coli product;

Group II: Claims 3, drawn to a derivative of Escherichia coli K12; and

Group III: Claim 4, drawn to a method of producing arginine by cultivation of E.coli.

Applicants have elected Group I, Claims 1-2, with traverse.

The Office asserts that the Invention of Group I is different from the Invention of Group II. The Applicants submit that the Group I differs from Group II by virtue of the additional limitations contained with the claim of Group II. The Applicants submit that the claims of Group II are directly dependent from the claims of Group I, and as such it is improper to separate these claims. Furthermore, the Office has not made out a proper case to support its assertion of patentable distinctness.

The Office argues that the inventions of Groups I-II and Group III are distinct because the product (Groups I-II) can be made by an alternative process to that of Group III. However, the products of Groups I-II are made by the process of Group III, as such the product and process are inseparable. Furthermore, the claims of Group III are directly dependent on the claims of Group I, and as such these Groups can not be separated.

Applicants respectfully traverse the Restriction Requirement on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness between the identified groups.

Further, MPEP §803 states as follows:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.

Applicants submit that a search of all claims would not constitute a serious burden on the Office, particularly in view of the fact that Groups I and II are classified in the same subclass (class 435, subclass 252.1+).

Additionally, MPEP §821.04 states:

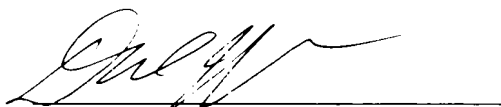
...if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Applicants respectfully submit that should the elected group be found allowable, the corresponding non-elected process Claim 4 (Group III) should be rejoined.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

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IN THE CLAIMS

--4. (Amended) A method of producing arginine comprising the steps of cultivating *E.coli* according to [any of claims 1 to 3] claim 1 in a culture medium to produce and accumulate arginine in the medium, and collecting arginine from the medium.

5. (New)

6. (New)--